

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ANTHONY LEON HOOVER EL,)
)
 Plaintiff,)
)
 v.) 1:24CV126
)
STEPHEN WADDELL, et al.,)
)
 Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis*.

However, the Court cannot further process the Complaint because:

1. Pursuant to the Prison Litigation Reform Act, Plaintiff may no longer proceed *in forma pauperis* in this Court unless he is under imminent danger of serious physical injury. The Act provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff previously filed at least four cases that were dismissed on grounds of frivolousness. Hoover v. State of North Carolina, No. 5:14-ct-3220-F (E.D.N.C. Mar. 26, 2015) (unpublished); Hoover v. Daniels, No. 5:13-ct-3096-BO (E.D.N.C. April 4, 2014) (unpublished); Hoover v. Dept. of the Treasury, No. 1:09CV864 (M.D.N.C. April 27, 2010) (unpublished); Hoover v. Bertie Correctional Inst., No. 1:07CV615 (M.D.N.C. Nov. 15, 2007) (unpublished). Plaintiff writes thirteen times in his Complaint, highlighted and

in all capital letters, that he is in imminent danger. However, he makes no allegation of facts to support those assertions. No matter how many times Plaintiff writes the allegation of danger, it is meaningless without supporting facts. Because no facts in the Complaint indicate that Plaintiff is in imminent danger of serious physical injury, he cannot proceed *in forma pauperis*.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms and accompanied by the \$405.00 filing fee. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms, instructions, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms and accompanied by the \$405.00 filing fee.

This, the 27th day of February, 2024.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge